In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 1072

JOSE GUERRERO BELTRAN, RAMONITA C. BELTRAN, AND ALVIN C. BELTRAN, PETITIONERS

v.

IMMIGRATION AND NATURALIZATION SERVICE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals (Pet. App. B) is not yet reported.

JURISDICTION

The judgment of the court of appeals was entered on November 8, 1966. A petition for rehearing was denied on November 23, 1966. The petition for a writ

of certiorari was filed on February 17, 1967. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the District Director abused his discretion in denying petitioners' application for an extension of time within which to depart voluntarily from the United States.

STATEMENT

Petitioners (wife, husband and child) are citizens of the Phillipine Islands who came to the United States pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 527, 534-535). The wife is a professional nurse. After a hearing at which it appeared that the family had overstayed the prescribed period of their stay, petitioners were granted the relief they requested—voluntary departure in lieu of deportation from the United States (8 U.S.C. 1254(e)). The terms of the order to depart voluntarily, entered on April 7, 1966, required them to leave the country by May 7, 1966. On May 5, 1966, petitioners requested an indefinite extension of time in which to depart voluntarily so as to allow Mrs. Beltran to make arrangements to enter Canada, where she hopes to practice her profession of nursing. The request was denied by the District Director on May 12 (Pet. App. A). The court of appeals affirmed, finding no abuse of discretion in the administrative action (Pet. App. B).

ARGUMENT

There is no substance to the present petition. The District Director could properly determine in her discretion (8 C.F.R. 244.2) that, in light of petitioners' breach of the terms of their entry and having been granted the privilege of voluntary departure, petitioners would be accorded no more than thirty days in which to depart. In making that determination, the District Director could also consider that there is no guarantee that the wife's application to enter Canada would be granted.[1] We note finally that petitioners' departure has already been long delayed by this litigation.

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[1] Petitioners' citation of *Matter of F—*, 9 I. & N. Dec. 333, is misplaced. That decision construed 8 C.F.R. 244.1, which governs the granting of the privilege of voluntary departure, relief which petitioners obtained in this case.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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